

STATEMENT OF EMERGENCY

907 KAR 1:145E

(1) This emergency administrative regulation is being promulgated to allow group homes to serve additional supports for community living (SCL) service recipients. This administrative regulation must be implemented on an emergency basis in order to protect the health, safety and welfare of individuals displaced from an intermediate care facility for individuals with mental retardation or a developmental disability (ICF MR DD).

(2) Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients displaced from an ICF MR DD.

(3) This emergency administrative regulation shall be replaced by an identical ordinary administrative regulation to be concurrently filed with the Regulations Compiler.

Ernie Fletcher
Governor

Mark D. Birdwhistell, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Long Term Care and Community Alternatives

4 (Emergency Amendment)

5 907 KAR 1:145E. Supports for community living services for an individual with mental
6 retardation or a developmental disability.

7 RELATES TO: KRS 205.520, 205.5606, 42 C.F.R. 441 Subpart G, 42 U.S.C. 1396a,
8 b, d, n

9 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6317

10 NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-726, effective July 9, 2004~~
11 ~~reorganized the Cabinet for Health Services and placed the Department for Medicaid~~
12 ~~Services and the Medicaid Program under the Cabinet for Health and Family Services.~~]

13 The Cabinet for Health and Family Services, Department for Medicaid Services, has
14 responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the
15 cabinet, by administrative regulation, to comply with any [a] requirement that may be
16 imposed, or opportunity presented, by federal law for the provision of medical
17 assistance to Kentucky's indigent citizenry. This administrative regulation establishes
18 the coverage provisions relating to home and community-based services provided to an
19 individual with mental retardation or a developmental disability as an alternative to
20 placement in an intermediate care facility for an individual with mental retardation or a
21 developmental disability.

Section 1. Definitions.

(1) "Assessment" or "reassessment" means a comprehensive evaluation of abilities, needs, and services that is:

(a) Completed on a MAP 351B;

(b) Submitted to the department for a level of care determination; and

(c) Conducted prior to an individual's initial admission to the waiver and at least annually thereafter.

(2) "Behavior intervention committee" or "BIC" means a group of individuals established to evaluate the technical adequacy of a proposed behavior intervention for an SCL recipient.

(3) ~~(2)~~ "Behavior support specialist" means an individual who has a master's degree with formal graduate course work in a behavioral science and at least one (1) year of experience in behavioral programming.

(4) "Certified psychologist with autonomous functioning" or "licensed psychological practitioner" means a person licensed pursuant to KRS Chapter 319.000 through 319.990.

(5) ~~(3)~~ "DCBS" means the Department for Community Based Services.

(6) ~~(4)~~ "Department" means the Department for Medicaid Services or its designee.

(7) "Developmental disability" means a disability that is manifested prior to the age of twenty-two (22), which constitutes a substantial disability to the affected individual and is attributable to mental retardation or related conditions that result in impairment of general intellectual functioning and adaptive behavior similar to that of a person with mental retardation and are a direct result of or are influenced by the person's substantial

1 cognitive deficits.

2 (8) [(5)] "DMHMR" means the Department for Mental Health and Mental Retardation
3 Services.

4 (9) [(6)] "DMR" means the Division of Mental Retardation in the Department for
5 Mental Health and Mental Retardation Services.

6 (10) "Electronic signature" is defined in KRS 369.102.

7 (11) [(7)] "Good cause" means a circumstance beyond the control of an individual
8 that affects the individual's ability to access funding or services, which includes:

9 (a) Illness or hospitalization of the individual which is expected to last sixty (60) days
10 or less;

11 (b) Death or incapacitation of the primary caregiver;

12 (c) Required paperwork and documentation for processing in accordance with
13 Section 2 of this administrative regulation has not been completed but is expected to be
14 completed in two (2) weeks or less;

15 (d) The individual or his or her legal representative has made diligent contact with a
16 potential provider to secure placement or access services but has not been accepted
17 within the sixty (60) day time period; or

18 (e) The individual is residing in a facility and is actively participating in a transition
19 plan to community based services, the length of which is greater than sixty (60) days
20 but less than one (1) year.

21 (12) [(8)] "Human rights committee" means a group of individuals established to
22 protect the rights and welfare of an SCL recipient.

23 (13) [(9)] "ICF/MR/DD" means an intermediate care facility for an individual with

1 mental retardation or a developmental disability.

2 (14) [(10)] "Individual support plan" or "ISP" means a written individualized plan
3 developed by an SCL recipient, or an SCL recipient's legal representative, support
4 coordinator, or others designated by an SCL recipient.

5 (15) "Level of care determination" means a determination by the department that an
6 individual meets low intensity or high intensity patient status criteria in accordance with
7 907 KAR 1:022.

8 (16) "Licensed marriage and family therapist" or LMFT" means a person licensed
9 pursuant to KRS Chapter 335.300 to 335.399.

10 (17) "Licensed professional clinical counselor" or "LPCC" means a person licensed
11 pursuant to KRS Chapter 335.500 to 335.599.

12 (18) [(11)] "Medically necessary" or "medical necessity" means that a covered benefit
13 is determined to be needed in accordance with 907 KAR 3:130.

14 (19) "Mental retardation" means significantly sub average intellectual functioning; an
15 intelligence quotient of approximately 70 or below; concurrent deficits or impairments in
16 present adaptive functioning in at least two of the following areas: communication, self-
17 care, home living, social or interpersonal skills, use of community resources, self-
18 direction, functional academic skills, work, leisure, health, and safety; with an onset
19 before 18 (eighteen) years of age.

20 (20) [(12)] "Occupational therapist" means an individual who is licensed in
21 accordance with KRS 319A.010.

22 (21) [(13)] "Physical therapist" means an individual who is licensed in accordance
23 with KRS 327.010.

1 (22) ~~[(14)]~~ "Psychologist" means an individual who is licensed in accordance with
2 KRS 319.050.

3 (23) ~~[(15)]~~ "Psychologist with autonomous functioning" means an individual who is
4 licensed in accordance with KRS 319.056.

5 (24) ~~[(16)]~~ "Qualified mental retardation professional" or "QMRP" means an individual
6 who has at least one (1) year of experience working with persons with mental
7 retardation or developmental disabilities and meets the professional criteria in
8 accordance with 42 C.F.R. 483.430.

9 (25) "Registered nurse" or "RN" means a person who is currently licensed pursuant to
10 KRS 314.011(5), and who has one (1) year or more experience as a professional
11 nurse.

12 (26) ~~[(17)]~~ "SCL provider" means an entity that meets the criteria established in
13 Section 3 of this administrative regulation.

14 (27) ~~[(18)]~~ "SCL recipient" means an individual who meets the criteria established in
15 Section 2 of this administrative regulation.

16 (28) "Social worker" means an individual qualified pursuant to KRS 335.

17 (29) ~~[(19)]~~ "Speech therapist" means an individual who is licensed in accordance with
18 KRS 334A.030.

19 (30) ~~[(20)]~~ "Supports for community living" or "SCL" means home and community-
20 based waiver services for an individual with mental retardation or a developmental
21 disability.

22 Section 2. SCL Recipient Eligibility, Enrollment and Termination.

23 (1) To be eligible to receive a service in the SCL program, an individual shall:

- (a) Be placed on the SCL waiting list in accordance with Section 6 of this administrative regulation;
- (b) Receive notification of potential SCL funding in accordance with Section 6 of this administrative regulation;
- (c) Meet ICF/MR/DD patient status ~~[level of care]~~ requirements established in 907 KAR 1:022;
- (d) Meet Medicaid eligibility requirements established in 907 KAR 1:605;
- (e) Submit an application packet to DMHMR which shall contain:
1. The Long Term Care Facilities and Home and Community Based Program Certification Form, MAP-350;
 2. The Freedom of Choice of Home and Community Based Waiver for Persons with MR/DD Service Providers Form, MAP-4102;
 3. The MAP-351B Assessment Form;
 4. The level of care determination;
 5. ~~[4.]~~ The results of a physical examination that was conducted within the last twelve (12) months;
 6. ~~[5.]~~ A statement for the need for long-term care services which shall be signed and dated by a physician or a QMRP and be less than one (1) year old;
 7. ~~[6.]~~ The results of a psychological examination completed by a licensed psychologist;
 8. ~~[7.]~~ A social case history which is less than one (1) year old;
 9. ~~[8.]~~ A projection of the needed supports and a preliminary MAP-145 SCL plan for meeting those needs;

1 ~~[9. A preliminary cost worksheet; and]~~

2 10. A MAP-24C documenting an individual's status change; and

3 (f) Receive notification of an admission packet approval from the department.

4 (2) To maintain eligibility as an SCL recipient:

5 (a) An individual shall be administered an NC-SNAP assessment by the department
6 in accordance with 907 KAR 1:155;

7 (b) An individual shall maintain Medicaid eligibility requirements established in 907
8 KAR 1:605;

9 (c) An ICF/MR/DD level of care determination shall be performed by the department
10 at least once every twelve (12) months; and

11 (d) An SCL provider shall notify the local DCBS office and the department on a MAP-
12 24C form if an SCL recipient is:

13 1. Terminated from the SCL waiver program;

14 2. Admitted to an ICF/MR/DD facility; or

15 3. Transferred to another Medicaid waiver program.

16 (3) An SCL waiver service shall not be provided to an SCL recipient who is receiving
17 a service in another Medicaid waiver program or is an inpatient of an ICF/MR/DD or
18 other facility.

19 (4) The department may exclude from receiving an SCL waiver service an individual
20 for whom the aggregate cost of SCL waiver services ~~[service]~~ would reasonably be
21 expected to exceed the cost of ICF/MR/DD services ~~[service]~~.

22 (5) Involuntary termination and loss of an SCL waiver program placement shall be in
23 accordance with 907 KAR 1:563 and shall be initiated if:

(a) An individual fails to access an SCL waiver service within sixty (60) days of notification of potential funding without good cause shown.

1. The individual or legal representative shall have the burden of documenting ~~[providing documentation of]~~ good cause, including:

a. A statement signed by the recipient or legal representative;

b. Copies of letters to providers; ~~and~~

c. Copies of letters from providers; and

d. A copy of a transition plan for individuals residing in a facility.

2. Upon receipt of documentation of good cause, the department shall grant one (1) extension in writing, which shall be:

a. Sixty (60) days for an individual who does not reside in a facility; or

b. The length of the transition plan, not to exceed one (1) year, and contingent upon continued active participation in the transition plan for an individual who does reside in a facility;

(b) An SCL recipient or legal representative fails to access the required service as outlined in the ISP for a period greater than sixty (60) consecutive days without good cause shown.

1. The recipient or legal representative shall have the burden of providing documentation of good cause including:

a. A statement signed by the recipient or legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1)

extension in writing which shall be:

a. Sixty (60) days for an individual who does not reside in a facility; and

b. The length of the transition plan, not to exceed one (1) year, and contingent upon continued active participation in the transition plan for an individual who does reside in a facility;

(c) An SCL recipient changes residence outside the Commonwealth of Kentucky; or

(d) An SCL recipient does not meet ICF/MR/DD patient status ~~[level of care]~~ criteria.

(6) Involuntary termination of a service to an SCL recipient by an SCL provider shall require:

(a) Simultaneous notice to the SCL recipient or legal representative and the case manager at least twenty (20) days ~~[support coordinator at least ten (10) days]~~ prior to the effective date of the action, which shall include:

1. A statement of the intended action;

2. The basis for the intended action;

3. The authority by which the action is taken; and

4. The SCL recipient's right to appeal the intended action through the provider's appeal or grievance process;

(b) Submittal of a DMR-001 to DMHMR at least twenty (20) days prior to the effective date of the intended action; and

(c) The case manager ~~[support coordinator]~~ in conjunction with the provider to:

1. Provide the SCL recipient with the name, address, and telephone number of each current SCL provider in the state;

2. Provide assistance to the SCL recipient in making contact with another SCL

1 provider;

2 3. Arrange transportation for a requested visit to an SCL provider site;

3 4. Provide a copy of pertinent information to the SCL recipient or legal representative;

4 5. Ensure the health, safety and welfare of the SCL recipient until an appropriate
5 placement is secured; ~~and~~

6 6. Continue to provide supports until alternative services or another placement is
7 secured; and

8 7. Provide assistance to ensure a safe and effective service transition.

9 (7) Voluntary termination and loss of an SCL waiver program placement shall be
10 initiated if an SCL recipient or legal representative submits a written notice of intent to
11 discontinue services to the service provider and to DMHMR.

12 (a) An action to terminate services shall not be initiated until thirty (30) calendar days
13 from the date of the notice; and

14 (b) The SCL recipient or legal representative may reconsider and revoke the notice in
15 writing during the thirty (30) calendar day period.

16 Section 3. Provider Participation.

17 (1) In order to provide an SCL waiver service in accordance with Section 4 of this
18 administrative regulation, an SCL provider shall:

19 (a) Be certified by the department prior to the initiation of the service;

20 (b) Be recertified at least annually by the department; and

21 (c) Have a main office within the Commonwealth of Kentucky.

22 (2) An SCL provider shall comply with 907 KAR 1:671, 907 KAR 1:672, 907 KAR
23 1:673 and 902 KAR 20:078.

1 (3) An SCL provider shall have a governing body that shall:

2 (a) Be a legally constituted entity within the Commonwealth of Kentucky;

3 (b) Not contain a majority of owners;

4 (c) Be responsible for the overall operation of the organization that shall include:

5 1. Establishing policy that complies with this administrative regulation concerning the
6 operation of the agency and the health, safety and welfare of an SCL recipient
7 supported by the agency;

8 2. Appointing and annually evaluating the executive director;

9 3. Delegating the authority and responsibility for the management of the affairs of the
10 agency in accordance with written policy and procedures that comply with this
11 administrative regulation;

12 4. Meeting as a whole at least quarterly to fulfill its ongoing responsibility and
13 maintaining a record of the discharge of its duties; and

14 5. Orienting a new member of the governing body to the operation of the
15 organization.

16 (4) An SCL provider shall:

17 (a) Ensure that an SCL waiver service is not provided to an SCL recipient by a staff
18 member of the SCL provider who has one (1) of the following blood relationships to the
19 SCL recipient.

20 1. Child;

21 2. Parent;

22 3. Sibling; or

23 4. Spouse;

- (b) Not enroll an SCL recipient for whom they cannot meet the support needs;
- (c) Have and follow written criteria that comply with this administrative regulation for determining the eligibility of an individual for admission to services; and
- (d) Document any denial for a service and the reason for the denial, and identify resources necessary to successfully support the denied SCL recipient in the community.
- (5) An SCL provider shall maintain documentation of its operations which shall include:
- (a) An annual review of written policy and procedures;
- (b) A written description of available SCL waiver services;
- (c) A current table of organization;
- (d) A memorandum of understanding with an SCL case management ~~[support coordination]~~ provider with whom they share individual support plans;
- (e) Information regarding satisfaction of an SCL recipient and the utilization of that information; ~~[and]~~
- (f) A quality improvement program; and
- (g) Documentation of achievement of outcomes based on best practice standards as approved by the department.
- (6) An SCL provider shall:
- (a) Maintain accurate fiscal information which shall include documentation of revenue and expenses;
- (b) Maintain a written schedule of policy relevant to rates and charges that shall be available to any individual upon request;
- (c) Meet the following requirements if responsible for the management of SCL

1 recipient funds:

2 1. Separate accounting shall be maintained for each SCL recipient or for his or her
3 interest in a common trust or special account;

4 2. Account balance and records of transactions shall be provided to the SCL recipient
5 or legal representative on a quarterly basis; and

6 3. The SCL recipient or legal representative shall be notified if a large balance is
7 accrued that may affect Medicaid eligibility.

8 (7) An SCL provider shall have a written statement of its mission and values, which
9 shall:

10 (a) Support empowerment and informed decision-making;

11 (b) Support and assist people to remain connected to natural support networks; and

12 (c) Promote dignity and self-worth.

13 (8) An SCL provider shall have written policy and procedures for communication and
14 interaction with a family and legal representative of an SCL recipient which shall:

15 (a) Require a timely response to an inquiry;

16 (b) Require the opportunity for interaction by direct care staff;

17 (c) Require prompt notification of any unusual occurrence;

18 (d) Require visitation to the SCL recipient at a reasonable time, without prior notice
19 and with due regard for the SCL recipient's right of privacy;

20 (e) Require involvement in decision making regarding the selection and direction of
21 the service provided; and

22 (f) Consider the cultural, educational, language and socioeconomic characteristics of
23 the family being supported.

1 (9) An SCL provider shall ensure the rights of an SCL recipient by:

2 (a) Making available a description of the rights and the means by which they can be
3 exercised and supported which shall include:

4 1. The right to time, space, and opportunity for personal privacy;

5 2. The right to communicate, associate and meet privately with the person of choice;

6 3. The right to send and receive unopened mail;

7 4. The right to retain and use personal possessions including clothing and grooming
8 articles; and

9 5. The right to private, accessible use of the telephone;

10 (b) Having a grievance and appeals system that includes an external mechanism for
11 review of complaints;

12 (c) ~~[Establishing a human rights committee which shall:~~

13 ~~1. Include an:~~

14 ~~a. SCL recipient(~~

15 ~~b. Individual not affiliated with the SCL provider; and~~

16 ~~c. Individual who has knowledge and experience in rights issues;~~

17 ~~2. Review and approve all ISP's with rights restrictions at least annually;~~

18 ~~3. Review and approve, in conjunction with the SCL recipient's team, behavior~~
19 ~~support plans that include highly restrictive procedures or contain rights restrictions; and~~

20 ~~4. Review the use of a psychotropic medication by an SCL recipient with no Axis-I~~
21 ~~diagnosis;~~

22 (d) ~~Establishing a behavior intervention committee which shall:~~

23 ~~1. Include one (1) individual who has expertise in behavior intervention and is not the~~

~~behavior specialist who wrote the behavior support plan;~~

~~2. Be separate from the human rights committee;~~

~~3. Review and approve prior to implementation and at least every six (6) months, in conjunction with the SCL recipient's team, behavior support plans that include highly restrictive procedures or contain rights restrictions; and~~

~~4. Review the use of a psychotropic medication by an SCL recipient with no Axis-I diagnosis and recommend an alternative intervention when appropriate; and~~

~~(e)] Complying with the Americans with Disabilities Act (28 C.F.R. 35).~~

(10)(a) An SCL provider shall maintain fiscal and service records and incident reports for a minimum of six (6) years from the date that:

1. A covered service is provided; or

2. The recipient turns twenty-one (21), if the recipient is under the age of twenty-one (21);

(b) All records and incident reports shall be made available to:

1. The department;

2. DMHMR or its designee;

3. The Commonwealth of Kentucky, Cabinet for Health and Family Services, Office of Inspector General or its designee;

4. The United States General Accounting Office or its designee;

5. The Commonwealth of Kentucky, Office of the Auditor of Public Accounts or its designee;

6. The Commonwealth of Kentucky, Office of the Attorney General or its designee; or

7. The Commonwealth of Kentucky, Cabinet for Health and Family Services,

Department for Community Based Services ~~[Cabinet for Families and Children or its~~
~~designee];~~ or

~~8.]~~ The Centers for Medicare and Medicaid Services.

(11) An SCL provider shall cooperate with monitoring visits from monitoring agents.

(12) An SCL provider shall maintain a record for each SCL recipient served that shall:

(a) Be recorded in permanent ink;

(b) Be free from correction fluid;

(c) Have a strike through each error that is initialed and dated; and

(d) Contain no blank lines in between each entry.

(13) A record of each SCL recipient who is served shall:

(a) Contain all information necessary for the delivery of the SCL recipient's services;

(b) Be cumulative;

(c) Be readily available;

(d) Contain documentation which shall meet the requirements of Section 4 of this
administrative regulation;

~~(e) [Contain a legend that identifies any symbol and abbreviations used in making a
record entry;~~

~~(f)]~~ Contain the following specific information:

1. The SCL recipient's name, Social Security number and Medicaid identification
number (MAID);

2. The intake or face sheet;

3. The MAP-351B Assessment form completed at least annually; ~~[self-assessment;]~~

4. ~~[An assessment summary relevant to the service area;~~

- 5.] The current ISP
5. [6.] The training objective for any support which facilitates achievement of the SCL recipient's chosen outcomes; [~~provides skills training to the SCL recipient;~~
7. ~~The service objective for those supports which do not provide skills training;~~
6. [8.] A list containing emergency contact telephone numbers;
7. [9.] The SCL recipient's history of allergies with appropriate allergy alerts for severe allergies;
8. [10.] The SCL recipient's medication record, including a copy of the prescription or the signed physician's order and the medication log if medication is administered at the service site;
9. [11.] A recognizable photograph [~~that is less than one (1) year old~~] of the SCL recipient;
10. [12.] Legally-adequate consent, updated annually, for the provision of services or other treatment [~~which shall include those~~] requiring emergency attention and shall be located at each service site;
11. [13.] The individual educational plan (IEP) or individual family service plan (IFSP), if applicable;
12. [14.] The SCL recipient's social history updated at least annually;
13. [15.] The results of an annual physical exam;
14. [16.] The Long Term Care Facilities and Home and Community Based Program Certification Form, MAP-350 updated annually;
15. [17.] Psychological evaluation;
16. [18.] Original and current level of care certification; [~~and~~]

1 ~~17. [19.]~~ The MAP-552K, Department for Community Based Services Notice of
2 Availability for Long Term Care/Waiver Agency/Hospice Form in the case management
3 and residential record; and

4 18. A copy of the approved SCL-1 form;

5 (f) [(g)] Be maintained by the provider in a manner to ensure the confidentiality of the
6 SCL recipient's record and other personal information and to allow the SCL recipient or
7 legal representative to determine when to share the information as provided by law;

8 (g) [(h)] Have the safety from loss, destruction or use by an unauthorized person
9 ensured by the provider; ~~[and]~~

10 (h) [(i)] Be available to the SCL recipient or legal guardian according to the provider's
11 written policy and procedures which shall address the availability of the record; and

12 (i) Have a corresponding legend which the provider shall make readily accessible.

13 (14) An SCL provider shall:

14 (a)1. Ensure that each staff, prior to providing direct care to a recipient, has tested
15 negatively for tuberculosis within the past twelve (12) months; and

16 2. Maintain documentation of each staff person's negative tuberculosis test;

17 (b) Have written personnel guidelines for each employee to include:

18 1. Salary range;

19 2. Vacation and leave procedures;

20 3. Health insurance;

21 4. Retirement benefits;

22 5. Opportunity for continuing education; and

23 6. Grievance procedures;

1 (c) Provide a written job description for each staff person which describes the
2 employee's duties and responsibilities;

3 (d) Annually review each job description;

4 (e) For each potential employee, prior to employment, obtain a criminal record check
5 from the Administrative Office of the Courts in which the individual resided or worked in
6 during the previous year. For an employee who resided or worked outside the
7 commonwealth during the previous year, obtain a criminal record check from the
8 Administrative Office of the Courts or the state's designated equivalent agency;

9 (f) For twenty-five (25) percent of employees, obtain a criminal record check from the
10 Administrative Office of the Courts, or other states designated equivalent annually for
11 each state in which the individual resided or worked in during the previous year;

12 (g) Obtain a criminal record check from the Administrative Office of the Courts prior to
13 placement as a volunteer performing direct care staff or a supervisory function, and
14 twenty-five (25) percent of volunteers annually thereafter if the individual is placed;

15 (h) ~~[Prior to employment and annually thereafter if the individual is hired; and~~
16 ~~2. Prior to placement as a volunteer performing direct care staff or a supervisory~~
17 ~~function, and annually thereafter if the individual is placed; (f)] Not employ or place an~~
18 individual as a volunteer with a prior conviction of an offense delineated in KRS
19 17.165(1) through (3) or prior felony conviction; and

20 (i) ~~(g)]~~ Evaluate the performance and competency of each employee upon
21 completion of the agency's designated probationary period and at a minimum of
22 annually thereafter.

23 (15) An SCL provider shall:

(a) Have an executive director who:

1.a. Is qualified with a bachelor's degree in administration or a human services field;

or

b. Is a registered nurse; and

2. ~~[3.]~~ Has a minimum of one (1) year of administrative responsibility in an organization which served individuals with mental retardation or a developmental disability;

(b) Have a program director of the SCL waiver program who:

1. Has a minimum of one (1) year of previous supervisory responsibility in an organization which served individuals with mental retardation or developmental disabilities;

2. Is a QMRP; and

3. May serve as executive director if the requirements established in paragraph (a) of this subsection of this administrative regulation are met;

(c) Have adequate direct-contact staff who:

1.a. Is eighteen (18) years or older; and

b. Has a high school diploma or GED; or

2.a. Is at least twenty-one (21) years old; and

b. Is able to adequately communicate with recipients and staff; ~~and~~

3. Has a valid Social Security number or valid work permit if not a U.S. citizen;

4. Can understand and carry out instructions; and

5. Has ability to keep simple records; and

(d) Has adequate supervisory staff who:

- 1 1.a. Is eighteen (18) years or older; and
- 2 b. Has a high school diploma or GED; or
- 3 2.a. Is at least twenty-one (21) years old; and
- 4 b. Has a minimum of one (1) year experience in providing services to individuals with
- 5 mental retardation or developmental disability;
- 6 3. Is able to adequately communicate with the recipients, staff and family members;
- 7 4. Has a valid Social Security number or valid work permit if not a U.S. citizen; and
- 8 5. Has ability to perform required record keeping.

9 (16) An SCL provider shall establish written guidelines that address the health, safety
10 and welfare of an SCL recipient, which shall include:

- 11 (a) Ensuring the health, safety and welfare of the SCL recipient;
- 12 (b) Maintenance of sanitary conditions;
- 13 (c) Ensuring each site operated by the provider is equipped with:
 - 14 1. An operational smoke detector placed in strategic locations; and
 - 15 2. A minimum of two (2) correctly-charged fire extinguishers placed in strategic
 - 16 locations; one (1) of which shall be capable of extinguishing a grease fire and have a
 - 17 rating of 1A10BC;
- 18 (d) Ensuring the availability of an ample supply of hot and cold running water with the
- 19 water temperature at a tap used by an SCL recipient not exceeding 120 ~~[140]~~ degrees
- 20 Fahrenheit;
- 21 (e) Establishing written procedures concerning the presence of deadly weapons as
- 22 defined in KRS 500.080 which shall ensure:
 - 23 1. Safe storage and use ~~[of common household items]~~; and

2. That firearms and ammunition are permitted:

a. Only in a family care home or an adult foster care home; and

b. Only if stored separately and under double lock;

(f) Establish written procedures concerning the safe storage of common household items;

(g) Ensuring that the nutritional needs of an SCL recipient are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

(h) [(g)] Ensuring that staff administering medication:

1. Have specific training per a DMR-approved curriculum and documented competency on medication administration, medication cause and effect and proper administration and storage of medication; and

2. Document all medication administered, including self-administered, over-the-counter drugs, on a medication log, with the date, time, and initials of the person who administered the medication and ensure that the medication shall:

a. Be kept in a locked container;

b. If a controlled substance, be kept under double lock;

c. Be carried in a proper container labeled with medication and dosage and accompany and be administered to an SCL recipient at a program site other than his or her residence if necessary; and

d. Be documented on a medication administration form and properly disposed of, if discontinued; and

(i) [(h)] Policy and procedures for ongoing monitoring of medication administration.

(17) An SCL provider shall establish and follow written guidelines for handling an emergency or a disaster which shall:

(a) Be readily accessible on site;

(b) Include instruction for notification procedures and the use of alarm and signal systems to alert an SCL recipient according to his or her disability;

(c) Include an evacuation drill to be conducted in three (3) minutes or less, ~~and~~ documented at least quarterly and scheduled to include a time when an SCL recipient is asleep; and

(d) Mandate that the result of an evacuation drill be evaluated and modified as needed.

(18) An SCL provider shall:

(a) Provide orientation for each new employee which shall include the mission, goals, organization, and practice of the agency;

(b) Provide or arrange for the provision of competency-based training to each employee to teach and enhance skills related to the performance of their duties;

(c) Require documentation of all training which shall include:

1. The type of training provided;

2. The name and title of the trainer;

3. The length of the training;

4. The date of completion; and

5. The signature of the trainee verifying completion;

(d) Ensure that each employee prior to independent functioning, completes training which shall include:

1 1. First aid, which shall be provided by an individual certified as a trainer by the
2 American Red Cross or other nationally-accredited organization;
3 2. Cardio-pulmonary resuscitation which shall be provided by an individual certified
4 as a trainer by the American Red Cross or other nationally-accredited organization;
5 3. Crisis prevention and management;
6 4. Identification and prevention of abuse, neglect and exploitation; and
7 5. Individualized instruction on the needs of the SCL recipient to whom the trainee
8 provides supports;

9 (e) Ensure that each employee that will be administering medications, prior to
10 independent functioning, completes training which shall include;

11 1. Medication administration training per cabinet approved curriculum;
12 2. Medications and seizures;
13 3. First aid, which shall be provided by an individual certified as a trainer by the
14 American Red Cross or other nationally-accredited organization;
15 4. Cardio-pulmonary resuscitation which shall be provided by an individual certified
16 as a trainer by the American Red Cross or other nationally-accredited organization;
17 5. Crisis prevention and management;
18 6. Identification and prevention of abuse, neglect and exploitation; and
19 7. Individualized instruction on the needs of the SCL recipient to whom the trainee
20 provides supports.

21 (f) Ensure that all employees complete core training, consistent with a DMHMR-
22 approved curriculum, no later than six (6) months from the date of employment, which
23 shall include;

1 1. Values, attitudes, and stereotypes;

2 2. Building community Inclusion;

3 3. Person-centered planning;

4 4. Positive behavior support;

5 5. Human sexuality and persons with disabilities;

6 6. Self determination; and

7 7. Strategies for Successful teaching.

8 ~~[completes Phase I training, consistent with a DMHMR approved curriculum, prior to~~
9 ~~working independently but no later than three (3) months from the date of employment,~~
10 ~~which shall include:~~

11 ~~1. Individualized instruction on the needs of the SCL recipient to whom the trainee~~
12 ~~provides supports;~~

13 ~~2. Training on the identification and reporting of abuse, neglect, and exploitation;~~

14 ~~3. Introduction to support for an individual with mental retardation or a developmental~~
15 ~~disability;~~

16 ~~4. Medication and seizures;~~

17 ~~5. Safety awareness;~~

18 ~~6. Recordkeeping;~~

19 ~~7. First aid, which shall be provided by an individual certified as a trainer by the~~
20 ~~American Red Cross or other nationally accredited organization;~~

21 ~~8. Coronary pulmonary resuscitation which shall be provided by an individual certified~~
22 ~~as a trainer by the American Red Cross or other nationally accredited organization; and~~

23 ~~9. Medication administration, which shall be provided by a nurse, pharmacist, or~~

1 medical doctor;

2 ~~(e) Ensure that each employee completes Phase II training, consistent with a~~
3 ~~DMHMR approved curriculum, within six (6) months of employment, which shall include:~~

4 ~~1. Introduction to mental retardation and other developmental disabilities;~~

5 ~~2. Values and principles;~~

6 ~~3. Working with a family;~~

7 ~~4. Individualized planning;~~

8 ~~5. Understanding behavior;~~

9 ~~6. Learning to listen;~~

10 ~~7. Health needs and services;~~

11 ~~8. Social and sexual aspects of life;~~

12 ~~9. Basic home management if the employee has responsibility for:~~

13 ~~a. Laundering;~~

14 ~~b. House cleaning;~~

15 ~~c. Food storage and meal planning; or~~

16 ~~d. An activity in the home; and~~

17 ~~10. Nutrition and meal planning if the employee has responsibility for:~~

18 ~~a. Interaction of common medication with food;~~

19 ~~b. Nutritional needs;~~

20 ~~c. Basic meal planning; or~~

21 ~~d. Food storage and handling;~~

22 ~~(g) [(f)] Not be required to receive the training specified in this section if the provider~~
23 is:

1. An occupational therapist providing occupational therapy;
 2. A physical therapist providing physical therapy;
 3. A psychologist or psychologist with autonomous functioning providing psychological services; or
 4. A speech therapist providing speech therapy; and
- (h) [(g)] Ensure that an individual volunteer performing a direct care staff or a supervisory function receives training prior to working independently, which shall include:
1. Orientation to the agency;
 2. Individualized instruction on the needs of the SCL recipient to whom the volunteer provides support;
 3. First aid, which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization; and
 4. Cardio-pulmonary [~~Coronary pulmonary~~] resuscitation, which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization.

Section 4. Covered Services.

- (1) A SCL waiver service shall:
- (a) Be prior authorized by the department; and
 - (b) Be provided pursuant to the individual support plan.
- (2) The following services provided to an SCL recipient by an SCL waiver provider shall be covered by the department:
- (a) Adult day training which shall:

- 1 1. Support the SCL recipient to participate in daily meaningful routines in the
- 2 community;
- 3 2. Stress training in:
- 4 a. The activities of daily living;
- 5 b. Self-advocacy;
- 6 c. Adaptive and social skills; and
- 7 d. Vocational skills;
- 8 3. Be provided in a non-residential or community setting that can:
- 9 a. Be a fixed location; or
- 10 b. Occur in public venues.
- 11 4. Not be diversional in nature;
- 12 5. Be provided as on-site services which shall:
- 13 a. Include facility-based services provided on a regularly scheduled basis;
- 14 b. Lead to the acquisition of skills and abilities to prepare the participant for work
- 15 and/or community participation; or
- 16 c. Prepare the participant for transition from school to work or adult support services;
- 17 6. Be provided as off-site services which shall:
- 18 a. Include services provided in a variety of community settings;
- 19 b. Provide access to community-based activities that cannot be provided by natural
- 20 or other unpaid supports;
- 21 c. Be designed to result in increased ability to access community resources without
- 22 paid supports;
- 23 d. Provide the opportunity for the participant to be involved with other members of the

general population;

e. Be provided as an enclave or group approach to training in which participants work as a group or dispersed individually throughout an integrated work setting with people without disabilities;

f. Be provided as a mobile crew performing work in a variety of community businesses or other community settings with supervision by the provider; and

g. Be provided as entrepreneurial or group approach to training for participants to work in a small business created specifically by or for the recipient or recipients;

7. Ensure that any recipient performing productive work that benefits the organization be paid commensurate with compensation to members of the general work force doing similar work;

8. Require that a provider conduct an orientation informing the recipient of supported employment and other competitive opportunities in the community at least annually;

9. Be provided at a time mutually agreed to by the recipient and provider;

10. Be provided to recipients age twenty-two (22) or older; or

11. Be provided to recipients age sixteen (16) to twenty-one (21) as a transition process from school to work or adult support services;

12. Be documented by:

a. A time and attendance record which shall include

(i) The date of the service;

(ii) The beginning and ending time of the service;

(iii) The location of the service; and

(iv) The signature, date of signature, and title of the individual providing the service;

1 and

2 b: A detailed monthly summary staff note which shall include:

3 (i) The month, day and year for the time period covered by each note written;

4 (ii) Progress toward outcomes identified in the ISP;

5 (iii) Progression, regression and maintenance toward outcomes identified; and

6 (iv) The signature, date of signature and title of individual preparing the summary

7 staff note;

8 13. Be limited to five (5) days per week, 255 days maximum per year;

9 14 Not exceed eight (8) hours per day or forty (40) hours per week; and

10 15. Not exceed sixteen (16) hours per day when provided in combination with

11 community living supports or supported employment;

12 (b) An assessment service including a comprehensive assessment which shall :

13 1. identify an SCL recipient's needs and the services that the SCL recipient or his

14 family cannot manage or arrange for on his behalf;

15 2. Evaluate an SCL recipient's physical health, mental health, social supports and

16 environment;

17 3. Be requested by an individual requesting SCL services or a family or legal

18 representative of the individual;

19 4. Be conducted within seven calendar days of receipt of the request for assessment;

20 5. Include at least one (1) face-to-face contact with the SCL recipient and, if

21 appropriate, his family by the assessor in the SCL recipients home; and

22 6. Not be reimbursable if the individual does not receive a level of care certification;

23 (c) A reassessment service which shall:

1. Determine the continuing need for SCL waiver services;
 2. Be performed at least every twelve (12) months;
 3. Be conducted using the same procedures as for an assessment service;
 4. Be conducted by a SCL Case manager and submitted to the department no more
5 than three (3) weeks prior to the expiration of the current level of care certification to
6 ensure that certification is consecutive;
 5. Not be reimbursable if conducted during a period that the SCL recipient is not
8 covered by a valid level of care certification; and
 6. Not be retroactive;
- (d) Behavioral support which shall:
1. Be the systematic application of techniques and methods to influence or change a
12 behavior in a desired way;
 2. Be provided to assist the SCL recipient to learn new behaviors that are directly
14 related to existing challenging behaviors or functionally equivalent replacement
15 behaviors for identified challenging behaviors;
 3. Include a functional analysis of the SCL recipient's behavior which shall include:
 - a. An analysis of the potential communicative intent of the behavior;
 - b. The history of reinforcement for the behavior;
 - c. Critical variables that precede the behavior;
 - d. Effects of different situations on the behavior; and
 - e. A hypothesis regarding the motivation, purpose and factors which maintain the
22 behavior;
 4. ~~[3.]~~ Include the development of a behavioral support plan which shall:

- a. Be developed by the behavioral specialist;
- b. Be implemented by ~~[another]~~ SCL provider staff in all relevant environments and activities;
- c. Be revised as necessary;
- d. Define the techniques and procedures used;
- e. Be designed to equip the recipient to communicate his or her needs and to participate in age appropriate activities;
- f. ~~[e-]~~ Include the hierarchy of behavior interventions ranging from the least to the most restrictive;
- g. ~~[f-]~~ Reflect the use of positive approaches; and
- h. ~~[g-]~~ Prohibit the use of prone or supine restraint, corporal punishment, seclusion, verbal abuse, and any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;
5. ~~[4-]~~ Include the provision of training to other SCL providers concerning implementation of the behavioral support plan;
6. ~~[5-]~~ Include the monitoring of an SCL recipient's progress which shall be accomplished through:
 - a. The analysis of data concerning the frequency, intensity, and duration of a behavior; and
 - b. The reports of an SCL provider involved in implementing the behavioral support plan;
7. Provide for the design, implementation and evaluation of systematic environmental modifications;

1 ~~8.~~ [6-] Be provided by a behavior support specialist who shall have:

2 a. A master's degree with formal graduate course work in a behavioral science; and

3 b. One (1) year of experience in behavioral programming;

4 ~~9.~~ [7-] Be documented by a detailed staff note which shall include:

5 a. The date of the service;

6 b. The beginning and ending time; and

7 c. The signature, date of signature and title of the behavioral specialist; and

8 ~~10.~~ [8-] Be limited to ten (10) hours for an initial functional assessment and six (6)
9 hours for the initial development of the behavior support plan and staff training;

10 (e) Case management which shall be:

11 1. Initiation, coordination, implementation, and monitoring of the assessment,
12 reassessment, evaluation, intake and eligibility process;

13 2. Assisting an SCL recipient in the identification, coordination, and arrangement of
14 the support team and support team meetings;

15 3. Assisting an SCL recipient and the support team to develop, update and monitor
16 the ISP which shall:

17 a. Be initially developed within thirty (30) days of the initiation of the service using
18 person centered guiding principles;

19 b. Be updated at least annually or as changes occur;

20 c. Be submitted on the MAP 351B and MAP 145 SCL forms; and

21 d. Include the addendum to the ISP and be sent to DMHMR within fourteen (14) days
22 of the effective date that the change occurs with the SCL recipient;

23 4. Assisting an SCL recipient in obtaining a needed service outside those available

1 by the SCL waiver utilizing referrals and information;

2 5. Furnishing an SCL recipient and legal representative with a listing of each
3 available SCL provider in the service area;

4 6. Maintaining documentation signed by an SCL recipient or legal representative of
5 informed choice of an SCL provider and of any change to the selection of an SCL
6 provider and the reason for the change;

7 7. Timely distribution of the ISP, crisis prevention plan, assessment, and other
8 documents to chosen SCL service providers;

9 8. Providing an SCL recipient and chosen SCL providers twenty-four (24) hour
10 telephone access to a case management staff person;

11 9. Working in conjunction with an SCL provider selected by an SCL recipient to
12 develop a crisis prevention plan which shall be:

13 a. Individual-specific;

14 b. Annually reviewed; and

15 c. Updated as a change occurs;

16 10. Assisting an SCL recipient in planning resource use and assuring protection of
17 resources;

18 11. Exclusive of the provision of a direct service to an SCL recipient;

19 12. Monthly face-to-face contact with an SCL recipient;

20 13. Monitoring the health, safety and welfare of an SCL recipient;

21 14. Monitoring all of the supports provided to an SCL recipient;

22 15. Establishing a human rights committee which shall:

23 a. Include an:

1 (i) SCL recipient;

2 (ii) Individual not affiliated with the SCL provider; and

3 (iii) Individual who has knowledge and experience in rights issues;

4 b. Review and approve, prior to implementation and at least annually thereafter, all
5 ISPs with rights restrictions;

6 c. Review and approve prior to implementation and at least annually thereafter, in
7 conjunction with the SCL recipient's team, behavior support plans that include highly
8 restrictive procedures or contain rights restrictions; and

9 d. Review the use of a psychotropic medication by an SCL recipient with no Axis I
10 diagnosis;

11 16. Establishing a behavior intervention committee which shall:

12 a. Include one (1) individual who has expertise in behavior intervention and is not the
13 behavior specialist who wrote the behavior support plan;

14 b. Be separate from the human rights committee;

15 c. Review and approve prior to implementation and at least annually thereafter or as
16 changes are needed, in conjunction with the SCL recipient's team, all behavior support
17 plans; and

18 d. Review the use of a psychotropic medication by an SCL recipient with no Axis I
19 diagnosis and recommend an alternative intervention when appropriate;

20 17. Documented by a monthly summary note which shall include:

21 a. Documentation of monthly contact with each chosen SCL provider;

22 b. Documentation of monthly face-to-face contact with an SCL recipient; and

23 c. Progress towards outcomes identified in the ISP;

1 18. Provided by a case manager who shall:

2 a. Have a bachelor's degree in a human service;

3 b. Be a registered nurse licensed in accordance with KRS 314.011;

4 c. Be a qualified social worker;

5 d. Be a licensed marriage and family therapist;

6 e. Be a professional clinical counselor;

7 f. Be a certified psychologist; or

8 g. Be a licensed psychological practitioner;

9 19. Supervised by a case management supervisor who shall be a QMRP;

10 20. Documented by a detailed monthly summary note which shall include:

11 a. The month, day and year for the time period each note covers;

12 b. Progression, regression and maintenance toward outcomes identified in the ISP;

13 and

14 c. The signature, date of signature and title of the individual preparing the note;

15 (f) Children's day habilitation which shall be:

16 1. The provision of support, training, and intervention in the areas of:

17 a. Self-care;

18 b. Sensory/motor development;

19 c. Daily living skills;

20 d. Communication; and

21 e. Adaptive and social skills;

22 2. Provided in a non-residential or community setting;

23 3. Provided to enable the recipient to participate in and access community resources;

1 4. Provided to help remove or diminish common barriers to participation in typical
2 roles in community life;

3 5. Provided at a time mutually agreed upon by the recipient and provider;

4 6. Limited to:

5 a. Individuals who are in school and up to sixteen (16) years of age;

6 b. Up to eight (8) hours per day, five (5) days per week; and

7 c. Up to sixteen (16) hours per day in combination with community living supports;

8 and

9 7. Documented by:

10 a. A time and attendance record which shall include:

11 (i) The date of service;

12 (ii) The beginning and ending time of the service;

13 (iii) The location of the service; and

14 (iv) The signature, date of signature, and title of the individual providing the service;

15 and

16 b. A detailed monthly staff note which shall include:

17 (i) The month, day and year for the time period each note covers;

18 (ii) Progress toward outcomes identified in the ISP;

19 (iii) Progression, regression, or maintenance of outcomes identified in the ISP; and

20 (iv) The signature, date of signature, and title of the individual preparing the summary

21 staff note.

22 ~~[(b) Community habilitation which shall be:~~

23 ~~1. The provision of support, training and intervention in the areas of:~~

- ~~a. Self care;~~
- ~~b. Daily living skills;~~
- ~~c. Communication;~~
- ~~d. Behavior support;~~
- ~~e. Social skills; and~~
- ~~f. Vocational training;~~
- ~~2. Provided in the community or a nonresidential setting, or community setting that~~
~~can;~~
- ~~a. Be a fixed location or, workshop; or~~
- ~~b. Occur in public venues.~~
- ~~3. Provided to enable the SCL recipient to:~~
- ~~a. Participate in a community project as a volunteer in a typically unpaid position;~~
- ~~b. Access and utilize community resources; and~~
- ~~c. Utilize a variety of assistance and training to interact with the environment through~~
~~expressive services which shall be based on goals and be therapeutic rather than~~
~~divisional;~~
- ~~d. provided to individuals who are~~
~~(i) Eighteen (18) years of age; or~~
~~(ii) sixteen (16) years of age as part of a transition process from school to work~~
- ~~4. Documented by:~~
- ~~a. A time and attendance record which shall include:~~
- ~~(i) The date of service;~~
- ~~(ii) The beginning and ending time;~~

~~(iii) The signature, date of signature, and title of the individual providing the service;~~
and

~~b. A detailed monthly staff note which shall include:~~

~~(i) The time, month, day and year for each note written;~~

~~(ii) The time, month, day and year for the time period the note covers;~~

~~(iii) Progress toward outcomes identified in the ISP;~~

~~(iv) Progression, regression and maintenance toward outcomes
identified in the ISP; and~~

~~(v) The signature, date of signature and title of the individual preparing the summary
staff note; and~~

~~5. Limited to forty (40) hours per week alone or in combination with supported
employment and a prevocational service;]~~

(g) ~~(e)~~ Community living supports which shall:

1. Be provided to facilitate independence and promote integration into the community
for an SCL recipient residing in his own home or in his family's home;

2. Be supports and assistance which shall not be diversional in nature and shall
include:

a. Assistance;

b. Activity training;

c. Laundry;

d. Routine household care and maintenance;

e. Activities of daily living;

f. Personal hygiene;

- g. Shopping;
- h. Money management [~~Use of money~~];
- i. Medication management;
- j. Socialization;
- k. Relationship building;
- l. Leisure choices;
- m. Participation in generic community activities; [or]
- n. Therapeutic goals; or
- o. Non-medical care not requiring nurse or physician intervention;
- 3. Not replace other work or day activities;
- 4. [3-] Be provided on a one-on-basis;
- 5. [4-] Not be provided at an adult day training or children's day habilitation site [a
- ~~community habilitation site];~~
- 6. [5-] Be documented by:
 - a. A time and attendance record which shall include:
 - (i) The date of the service;
 - (ii) The beginning and ending time of the service; and
 - (iii) The signature, date of signature and title of the individual providing the service;
- and
- b. A detailed monthly summary note which shall include:
 - (i) The ~~[time,]~~ month, day and year for the time period each note covers [~~written~~];
 - (ii) ~~[The time, month, day and year for the time period the note covers;~~
 - ~~(iii)]~~ Progress toward outcomes identified in the ISP;

1 ~~(iii)~~ ~~(iv)~~ Progression, regression and maintenance toward outcomes identified in the
2 ISP; and

3 ~~(iv)~~ ~~(v)~~ The signature, date of signature and title of the individual preparing the
4 summary note; and

5 ~~7. [6.]~~ Be limited to sixteen (16) hours per day alone or in combination with adult day
6 training, children's day habilitation and supported employment; ~~[community habilitation,~~
7 ~~supported employment and prevocational services;]~~

8 ~~(h)~~ ~~(d)~~ Occupational therapy which shall be:

9 1. A physician-ordered evaluation of an SCL recipient's level of functioning by
10 applying diagnostic and prognostic tests;

11 2. Physician ordered services in a specified amount and duration to guide an SCL
12 recipient in the use of therapeutic, creative, and self-care activities to assist an SCL
13 recipient in obtaining the highest possible level of functioning;

14 3. Training of other SCL providers on improving the level of functioning;

15 4. Exclusive of maintenance or the prevention of regression;

16 5. Provided by an occupational therapist; and

17 6. Documented by a detailed staff note which shall include:

18 a. Progress toward outcomes identified in the ISP;

19 b. The date of the service;

20 c. Beginning and ending time; and

21 d. The signature, date of signature and title of the individual providing the service;

22 ~~(i)~~ ~~(e)~~ Physical therapy which shall be:

23 1. A physician-ordered evaluation of an SCL recipient by applying muscle, joint, and

functional ability tests;

2. Physician-ordered treatment in a specified amount and duration to assist an SCL recipient in obtaining the highest possible level of functioning;

3. Training of another SCL provider on improving the level of functioning;

4. Exclusive of maintenance or the prevention of regression;

5. Provided by a physical therapist; and

6. Documented by a detailed staff note which shall include:

a. Progress made toward outcomes identified in the ISP;

b. The date of the service;

c. Beginning and ending time of the service; and

d. The signature, date of signature and title of the individual providing the service;

~~[(f) A prevocational service which shall be:~~

~~1. Designed to prepare an SCL recipient for paid or unpaid employment through activities that are not job-specific, including:~~

~~a. Supporting the SCL recipient to understand the meaning, value and demands of work;~~

~~b. Teaching social and communication skills;~~

~~c. Teaching habilitative goals;~~

~~d. Teaching work performance skills; or~~

~~e. Job seeking and maintaining skills;~~

~~2. Provided to an SCL recipient who is not expected to be able to join the general work force within one (1) year;~~

~~3. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29~~

U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Subtitle B, Chapter III), proof of which shall be documented in the SCL recipient's file;

~~4. Provided on a one-to-one basis;~~

~~5. Documented by:~~

~~a. A time and attendance record which shall include:~~

~~(i) The date of the service;~~

~~(ii) The beginning and ending time; and~~

~~(iii) The signature, date of signature and title of the individual providing the service;~~

~~and~~

~~b. A detailed monthly summary note which shall include:~~

~~(i) The time, month, day and year for each note written;~~

~~(ii) The time, month, day and year for the time period the note covers;~~

~~(iii) Progression, regression and maintenance toward outcomes identified in the ISP;~~

~~and~~

~~(iv) The signature, date of signature and title of the individual preparing the note; and~~

~~6. Limited to forty (40) hours per week alone or in combination with community habilitation;]~~

(j) ~~[(g)]~~ Psychological services which shall:

1. Be provided to an SCL recipient who is dually diagnosed to coordinate treatment for mental illness and a psychological condition;

2. Be utilized if the needs of the SCL recipient cannot be met by behavior support or another covered service;

3. Include:

- a. The administration of psychological testing;
 - b. Evaluation;
 - c. Diagnosis; and
 - d. Treatment;
4. Be incorporated into the ISP with input from the psychological service provider for the development of program-wide support;
 5. Be provided by a psychologist or a psychologist with autonomous functioning; and
 6. Be documented by a detailed staff note which shall include:
 - a. The date of the service;
 - b. The beginning and ending time of the service; and
 - c. The signature, date of signature and title of the individual providing the service;
- (k) [(h)] Residential support service which shall:
1. Include twenty-four (24) hour supervision in:
 - a. A staffed residence which shall not have greater than three (3) [SCL] recipients of publicly funded supports in a home rented or owned by the SCL provider;
 - b. A group home which shall be licensed in accordance with 902 KAR 20:078 and shall not have greater than eight (8) SCL recipients; ~~[three (3) SCL recipients, unless an individual residing in the group home who is not an SCL recipient receives notification of SCL funding and desires to continue living in the group home;]~~
 - c. A family care home which shall not have greater than three (3) [SCL] recipients of publicly funded supports living in the home; or
 - d. An adult foster care home which shall not have greater than three (3) [SCL] recipients of publicly funded supports aged eighteen (18) or over living in the home;

- 1 2. Utilize a modular home only if the:
 - 2 a. Wheels are removed;
 - 3 b. Home is anchored to a permanent foundation; and
 - 4 c. Windows are of adequate size for an adult to use as an exit in the event of an
 - 5 emergency;
- 6 3. If provided via a modular home, have 180 days from the effective date of this
- 7 administrative regulation to meet the modular home requirements;
- 8 4. Not utilize a motor home;
- 9 5. Provide a sleeping room which ensures that an SCL recipient:
 - 10 a. Does not share a room with an individual of the opposite sex who is not the SCL
 - 11 recipient's spouse;
 - 12 b. Under the age of eighteen (18) does not share a room with an individual that has
 - 13 an age variance of more than five (5) years;
 - 14 c. Does not share a room with an individual who presents a potential threat; and
 - 15 d. Has a separate bed equipped with substantial springs, a clean and comfortable
 - 16 mattress and clean bed linens as required for the SCL recipient's health and comfort;
- 17 6. Provide assistance with daily living skills which shall include:
 - 18 a. Ambulation;
 - 19 b. Dressing;
 - 20 c. Grooming;
 - 21 d. Eating;
 - 22 e. Toileting;
 - 23 f. Bathing;

1 g. Meal planning and preparation;

2 h. Laundry;

3 i. Budgeting and financial matters; ~~[or]~~

4 j. Home care and cleaning; or

5 k. Medication management;

6 7. Provide supports and training to obtain the outcomes of the SCL recipient as
7 identified in the individual support plan;

8 8. Provide or arrange for transportation to services, activities, and medical
9 appointments as needed;

10 9. Include participation in medical appointments and follow-up care as directed by the
11 medical staff; and

12 10. Be documented by a detailed monthly summary note which shall include:

13 a. ~~[The time, month, day and year for each note written;~~

14 ~~b.]~~ The ~~[time,]~~ month, day and year for the time period the note covers;

15 b. ~~[e.]~~ Progression, regression and maintenance toward outcomes identified in the
16 ISP;

17 c. ~~[d.]~~ Pertinent information regarding the life of the SCL recipient; and

18 d. ~~[e.]~~ The signature, date of signature, and title of the individual preparing the staff
19 note;

20 (l) ~~(f)~~ Respite service which shall be:

21 1. Provided only to an SCL recipient unable to independently administer self-care;

22 2. Provided in a variety of settings;

23 3. Provided on a short-term basis due to absence or need for relief of an individual

1 providing care to an SCL recipient;

2 4. Provided only to an SCL recipient who resides in a family care home, adult foster
3 care home, or his or her family's home;

4 5.[.] Limited to 1440 hours per calendar year; and

5 6. Documented by a detailed staff note which shall include:

6 a. The date of the service;

7 b. The beginning and ending time; and

8 c. The signature, date of signature and title of the individual providing the service;

9 (m) ~~[(j)]~~ Specialized medical equipment and supplies which shall:

10 1. Include durable and nondurable medical equipment, devices, controls, appliances
11 or ancillary supplies;

12 2. Enable an SCL recipient to increase his ability to perform daily living activities or to
13 perceive, control or communicate with the environment;

14 3. Be ordered by a physician and submitted on a MAP-95;

15 4. Include equipment necessary to the proper functioning of specialized items;

16 5. Not be available through the department's durable medical equipment, vision,
17 hearing, or dental programs;

18 6. Meet applicable standards of manufacture, design and installation; and

19 7. Exclude those items which are not of direct medical or remedial benefit to the SCL
20 recipient;

21 (n) ~~[(k)]~~ Speech therapy which shall be:

22 1. A physician-ordered evaluation of an SCL recipient with a speech or language
23 disorder;

2. A physician ordered habilitative service in a specified amount and duration to assist an SCL recipient with a speech and language disability in obtaining the highest possible level of functioning;

3. Training of other SCL providers on improving the level of functioning;

4. Exclusive of maintenance or the prevention of regression;

5. Be provided by a speech therapist;

6. Documented by a detailed staff note which shall include:

a. Progress toward outcomes identified in the ISP;

b. The date of the service;

c. The beginning and ending time; and

d. The signature, date of signature and title of the individual providing the service;

~~[(f). Support coordination which shall be:~~

~~1. Initiation, coordination, implementation, and monitoring of the assessment, evaluation, intake and eligibility process;~~

~~2. Assisting an SCL recipient in the identification, coordination, and arrangement of the support team and support team meetings;~~

~~3. Assisting an SCL recipient and the support team to develop, update and monitor the ISP which shall:~~

~~a. Be initially developed within thirty (30) days of the initiation of the service;~~

~~b. Be updated at least annually; and~~

~~c. Include the addenda to the ISP and be sent to DMHMR within fourteen (14) days of the effective date the change occurs with the SCL recipient;~~

~~4. Assisting an SCL recipient in obtaining a needed service outside those available~~

- ~~by the SCL waiver utilizing referrals and information;~~
- ~~5. Furnishing an SCL recipient and legal representative with a listing of each available SCL provider in the service area;~~
- ~~6. Maintaining documentation signed by an SCL recipient or legal representative of informed choice of an SCL provider and of any change to the selection of an SCL provider and the reason for the change;~~
- ~~7. Timely distribution of the ISP, crisis prevention plan, assessment, and other documents to chosen SCL service providers;~~
- ~~8. Providing an SCL recipient and chosen SCL providers twenty-four (24) hour telephone access to a support coordination staff person;~~
- ~~9. Working in conjunction with an SCL provider selected by an SCL recipient to develop a crisis prevention plan which shall be:~~
- ~~a. Individual specific;~~
- ~~b. Annually reviewed; and~~
- ~~c. Updated as a change occurs;~~
- ~~10. Assisting an SCL recipient in planning resource use and assuring protection of resources;~~
- ~~11. Exclusive of the provision of a direct service to an SCL recipient;~~
- ~~12. Monthly face-to-face contact with an SCL recipient;~~
- ~~13. Monitoring the health, safety and welfare of an SCL recipient;~~
- ~~14. Monitoring of the supports provided to an SCL recipient;~~
- ~~15. Documented by a monthly summary note which shall include:~~
- ~~a. Documentation of monthly contact with each chosen SCL provider;~~

- ~~b. Documentation of monthly face-to-face contact with an SCL recipient; and~~
- ~~c. Progress towards outcomes identified in the Individual Support Plan;~~
- ~~16. Provided by a support coordinator case manager who shall have a bachelor's degree in a human service;~~
- ~~17. Supervised by a support coordination case manager supervisor who shall be a QMRP;~~
- ~~18. Documented by a detailed monthly summary note which shall include:~~
- ~~a. The time, month, day and year for each note written;~~
- ~~b. The time, month, day and year for the time period the note covers;~~
- ~~c. Progression, regression and maintenance toward outcomes identified in the ISP;~~
- ~~and~~
- ~~d. The signature, date of signature and title of the individual preparing the note]~~
- (o) ~~(m)~~ Supported employment which shall be:
1. Intensive, ongoing support for an SCL recipient to maintain paid employment in an environment in which an individual without a disability is employed;
2. Provided in a variety of settings;
3. Provided on a one-to-one (1 to 1) basis;
4. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Subtitle B, Chapter III), proof of which shall be documented in the SCL recipient's file;
5. Exclusive of work performed directly for the supported employment provider;
6. Provided by a certified job coach;
7. Documented by:

1 a. A time and attendance record with shall include:

2 (i) The date of service;

3 (ii) The beginning and ending time; and

4 (iii) The signature, date of signature, and title of the individual providing the service;

5 and

6 b. A detailed monthly summary note which shall include:

7 (i) ~~[The time, month, day and year for each note written;~~

8 ~~(iii)]~~ The ~~[time,]~~ month, day and year for the time period the note covers;

9 (ii) ~~[(iii)]~~ Progression, regression and maintenance toward outcomes identified in the
10 ISP; and

11 (iii) ~~[(iv)]~~ The signature, date of signature and title of the individual preparing the note;

12 and

13 8. ~~[7.]~~ Limited to forty (40) hours per week alone or in combination with adult day
14 training ~~[community habilitation]~~.

15 Section 5. Incident Reporting Process. (1) An incident shall be documented on an
16 incident report form.

17 (2) There shall be three (3) classes of incidents including:

18 (a) A class I incident which shall:

19 1. Be minor in nature and not create a serious consequence;

20 2. Not require an investigation by the provider agency;

21 3. Be reported to the case manager ~~[support coordinator]~~ within twenty-four (24)
22 hours;

23 4. Be reported to the guardian as directed by the guardian;

5. Be retained on file at the provider and case manager ~~[support coordinator]~~ agency;
and

6. If a medication error which does not require medical treatment, be reported to the Assistant Director of the Division of Mental Retardation, DMHMR or its designee, on a the monthly medication error report form by the tenth (10th) of the following month; [Be reported to the Assistant Director of the Division of Mental Retardation, DMHMR or its designee, within ten (10) calendar days of discovery if the incident involves the use of restraint or a medication error, and shall include a complete written report of the incident follow up;]

(b) A class II incident which shall:

1. Be serious in nature;
2. Involve the use of physical or chemical restraint;
3. Involve a medication error resulting in a physician or emergency room visit;
4. Require an investigation which shall be initiated by the provider agency within twenty-four (24) hours of discovery, and shall involve the case manager; ~~[support coordinator;]~~ and

5. ~~[3-]~~ Be reported by the provider agency to:

a. The case manager ~~[support coordinator]~~ within twenty-four (24) hours of discovery;
b. The guardian within twenty-four (24) hours of discovery;
c. The assistant director of the Division of Mental Retardation, DMHMR, or designee, within ten (10) calendar days of discovery, and shall include a complete written report of the incident investigation and follow up; and

(c) A class III incident which shall:

1. Be grave in nature;
 2. Be a medication error that occurs over multiple days or results in a delay in obtaining critical medications;
 3. Be a medication error resulting in harm or hospitalization of the individual;
 4. Be immediately investigated by the provider agency, and the investigation shall involve the case manager; ~~[support coordinator;]~~ and
 5. ~~[3-]~~ Be reported by the provider agency to:
 - a. The case manager ~~[support coordinator]~~ within eight (8) hours of discovery;
 - b. The guardian within eight (8) hours of discovery;
 - c. DCBS immediately upon discovery, if involving suspected abuse, neglect, or exploitation in accordance with KRS Chapter 209; and
 - d. The assistant director of the Division of Mental Retardation, DMHMR, or designee, within eight (8) hours of discovery and shall include a complete written report of the incident investigation and follow-up within seven (7) calendar days of discovery. If the incident occurs after 5 p.m. EST on a weekday, or occurs on a weekend or holiday, notification to DMR shall occur on the following business day.
- (3) All medication errors shall be reported to the Assistant Director of the Division of Mental Retardation, DMHMR, or designee, on a monthly medication error report form by the tenth (10th) of the following month.

Section 6. SCL Waiting List. (1) An individual applying for SCL waiver services shall be placed on a statewide waiting list which shall be maintained by the department.

(2) An individual shall be placed on the SCL waiting list based upon his region of origin in accordance with KRS 205.6317(3) and (4).

1 (3) In order to be placed on the SCL waiting list, an individual shall submit to the
2 department a completed MAP-620, Application for MR/DD Services, which shall include
3 a signature from a physician or a QMRP indicating medical necessity.

4 (4) DMHMR or its designee shall validate the MAP-620 application information.

5 (5) Prior to April 1, 2003, the order of placement on the SCL waiting list for an
6 individual residing in an ICF/MR/DD shall be September 22, 1995 or the date of
7 admission to the ICF/MR/DD, whichever is later, and by category of need of the
8 individual in accordance with subsection (7)(a)-(c) of this section.

9 (6) Beginning April 1, 2003, the order of placement on the SCL waiting list for an
10 individual residing in an ICF/MR/DD shall be determined by chronological date of receipt
11 of the MAP-620 and by category of need of the individual in accordance with subsection
12 (7)(a)-(c) of this section.

13 (7) The order of placement on the SCL waiting list for an individual not residing in an
14 ICF/MR/DD shall be determined by chronological date of receipt of the MAP-620 and by
15 category of need of the individual as follows:

16 (a) Emergency. An immediate service is needed as determined by:

17 1. Abuse, neglect or exploitation of the individual as substantiated by DCBS;

18 2. The death of the individual's primary caregiver and lack of alternative primary
19 caregiver;

20 3. The lack of appropriate placement for the individual due to:

21 a. Loss of housing;

22 b. Inappropriate hospitalization; or

23 c. Imminent discharge from a temporary placement;

1 4. Jeopardy to the health and safety of the individual due to the primary caregiver's
2 physical or mental health status; or

3 5. The attainment of the age of twenty (20) years and six (6) months, for an individual
4 in the custody of DCBS;

5 (b) Urgent. A service is needed within one (1) year as determined by:

6 1. Threatened loss of the individual's existing funding source for supports within the
7 year due to the individual's age or eligibility;

8 2. The individual is residing in a temporary or inappropriate placement but his or her
9 health and safety is assured;

10 3. The diminished capacity of the primary caregiver due to physical or mental status
11 and the lack of an alternative primary caregiver; or

12 4. The individual exhibits an intermittent behavior or action that requires
13 hospitalization or police intervention;

14 (c) Future planning. A service is needed in greater than one (1) year as determined
15 by:

16 1. The individual is currently receiving a service through another funding source that
17 meet his or her needs;

18 2. The individual is not currently receiving a service and does not currently need the
19 service;

20 3. The individual is in the custody of DCBS and is less than twenty (20) years and six
21 (6) months of age; or

22 4. The individual is less than twenty-one (21) years of age.

23 (8) If multiple applications are received on the same arrival date, a lottery shall be

held to determine placement on the SCL waiting list within each category of need.

(9) A written notification of original placement on the SCL waiting list and any changes due to reconsideration shall be mailed to an individual or his legal representative and case management provider if identified.

(10) In determining chronological status, the original date of receipt of a MAP- 620 shall be maintained and shall not change when an individual is moved from one (1) category of need to another.

(11) Maintenance of the SCL waiting list shall occur as follows:

(a) During the first year of implementation of category of need, each individual currently on the SCL waiting list shall be contacted by phone or in person for validation to determine category of need;

(b) Validation shall be completed based upon the chronological date of placement on the SCL waiting list within each geographic region; and

(c) The department shall, at a minimum, annually update the waiting list during the birth month of an individual. The individual or his or her legal representative and case management provider shall be contacted in writing to verify the accuracy of the information on the SCL waiting list and his or her continued desire to pursue placement in the SCL program. The requested data shall be received by the department within thirty (30) days from the date of the letter.

(12) Reassignment of category of need shall be completed based on the updated information and validation process.

(13) An individual or his or her legal representative may submit a written request for consideration of movement from one (1) category of need to another if there is a change

1 in status of the individual.

2 (14) If an individual on the SCL waiting list in the emergency category of need is
3 placed in an ICF/MR/DD, the category of need shall not change.

4 (15) The criteria for removal from the SCL waiting list shall be:

5 (a) After a documented attempt, the department is unable to locate the individual or
6 his or her legal representative;

7 (b) The individual is deceased;

8 (c) Review of documentation reveals that the individual does not have a mental
9 retardation diagnosis or a developmental disability diagnosis as defined in Section 1 of
10 this administrative regulation;

11 (d) Notification of potential SCL funding is made and the individual or his or her legal
12 representative declines the potential funding and does not request to be maintained on
13 the SCL waiting list; or

14 (e) [~~(d)~~] Notification of potential SCL funding is made and the individual or his legal
15 representative does not, without good cause, complete the application process with the
16 department within sixty (60) days of the potential funding notice date.

17 1. The individual or legal representative shall have the burden of providing
18 documentation of good cause, including:

19 a. A signed statement by the individual or the legal representative;

20 b. Copies of letters to providers; and

21 c. Copies of letters from providers.

22 2. Upon receipt of documentation of good cause, the department shall grant one (1)
23 extension in writing, which shall be:

- 1 a. Sixty (60) days for an individual who does not reside in a facility; or
2 b. The length of the transition plan, not to exceed one (1) year, and contingent upon
3 continued active participation in the transition plan, for an individual who does reside in
4 a facility.

5 (16) If notification of potential SCL funding is made and an individual or his or her
6 legal representative declines the potential funding but requests to be maintained on the
7 SCL waiting list:

8 (a) The individual shall be moved to the future planning category; and

9 (b) The chronological date shall remain the same.

10 (17) If an individual is removed from the SCL waiting list, the department shall mail
11 written notification to the individual or his or her legal representative and the SCL
12 coordination provider.

13 (18) The removal of an individual from the SCL waiting list shall not prevent the
14 submittal of a new application at a later date.

15 (19) The SCL waiting list, excluding the emergency category, shall be fixed as it
16 exists ninety (90) days prior to the expected date of offering a placement based upon
17 the allocation of new funding and shall be resumed following the allocation of new
18 funding.

19 (20) An individual shall be allocated potential funding based upon:

20 (a) His or her region of origin in accordance with KRS 205.6317(3) and (4);

21 (b) His or her category of need; and

22 (c) His or her chronological date of placement on the SCL waiting list.

23 (21) To be allocated potential funding, an individual residing in an institution shall

1 meet the following additional criteria:

2 (a) The treatment professionals determine that an SCL placement is appropriate for
3 the individual; and

4 (b) The SCL placement is not opposed by the individual or his or her legal
5 representative.

6 Section 7. Use of Electronic Signatures.

7 (1) The creation, transmission, storage, and other use of electronic signatures and
8 documents shall comply with the requirements established in KRS 369.101 to 368.120,
9 and all applicable state and federal statutes and regulations.

10 (2) A SCL service provider choosing to utilize electronic signatures shall:

11 (a) Develop and implement a written security policy which shall:

12 1. Be adhered to by all of the provider's employee's, officer's, agents, and
13 contractor's;

14 2. Stipulate which individuals have access to which electronic signature(s) and
15 password authorization; and

16 3. Ensure that an electronic signature is created, transmitted and stored in a secure
17 fashion;

18 (b) Develop a consent form which shall:

19 1. Be completed and executed by each individual utilizing an electronic signature;

20 2. Attest to the signature's authenticity; and

21 3. Include a statement indicating that the individual has been notified of his or her
22 responsibility in allowing the use of the electronic signature; and

23 (3) Produce to the department a copy of the agency's electronic signature policy, the

1 signed consent form, and the original filed signature immediately upon request.

2 Section 8. Appeal Rights. (1) An appeal of a department decision regarding a
3 Medicaid beneficiary based upon an application of this administrative regulation shall be
4 in accordance with 907 KAR 1:563.

5 (2) An appeal of a department decision regarding Medicaid eligibility of an individual
6 based upon an application of this administrative regulation shall be in accordance with
7 907 KAR 1:560.

8 (3) An appeal of a department decision regarding a provider based upon an
9 application of this administrative regulation shall be in accordance with 907 KAR 1:671.

10 (4) An individual shall not appeal a category of need specified in Section 6 of this
11 administrative regulation.

12 Section 9. [~~Section 8.~~] Incorporation by Reference. (1) "Supports for Community
13 Living Manual, November 2005 edition"[, ~~Department for Medicaid Services "March~~
14 ~~2003-1998 Edition~~] is incorporated by reference.

15 (2) This material may be inspected, copied, or obtained, subject to applicable
16 copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort,
17 Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

907 KAR 1:145E

REVIEWED:

Date

Shannon Turner, J.D., Commissioner
Department for Medicaid Services

Date

Mike Burnside, Deputy Secretary
Cabinet for Health and Family Services

APPROVED:

Date

Mark D. Birdwhistell, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:145E
Cabinet for Health Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen (502-564-6204)

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes Supports for Community Living (SCL) covered services, coverage provisions, and provider qualifications.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish SCL covered services, coverage provisions, and provider qualifications.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing SCL covered services, coverage provisions, and provider qualifications.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing SCL covered services, coverage provisions, and provider qualifications.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation:
The amendment to this administrative regulation increases the allowed capacity in group homes for supports for community living (SCL) service recipients as well as reconciles the regulation with federally-approved modifications to the SCL waiver program. Modifications include adding assessment and reassessment of an individual to establish a care plan; additional documentation requirements; revised various training requirements as well as adding a criminal record check requirement for volunteers.
 - (b) The necessity of the amendment to this administrative regulation:
The amendment to this administrative regulation is necessary to protect the health, safety and welfare of individuals displaced from an intermediate care facility for individuals with mental retardation or a developmental disability (ICF MR DD).
 - (c) How the amendment conforms to the content of the authorizing statutes:
The amendment to this administrative regulation conforms to the content of the authorizing statutes by increasing the allowed capacity in group homes for SCL service recipients.
 - (d) How the amendment will assist in the effective administration of the statutes:

The amendment to this administrative regulation will assist in the effective administration of the authorizing statutes by increasing the allowed capacity in group homes for SCL service recipients.

- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The affected entities include all group homes as well as SCL recipients; particularly those displaced from an ICF MR DD.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will increase the capacity for SCL service recipients in group homes and thus help accommodate SCL recipients; particularly those displaced from an ICF MR DD.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: The Department for Medicaid Services (DMS) is unable to accurately predict the fiscal impact of the amendment at this time given that it is unable to predict utilization for the newly implemented services as opposed to services being eliminated from the waiver program.
 - (b) On a continuing basis: DMS is unable to accurately predict the fiscal impact of the amendment at this time given that it is unable to predict utilization for the newly implemented services as opposed to services being eliminated from the waiver program.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and state matching funds from general fund and restricted fund appropriations are the funding sources utilized to implement and enforce this administrative regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation does not establish or increase any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used)

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this

administrative regulation could raise questions of arbitrary action on the part of the agency. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

907 KAR 1:145E

Supports for Community Living Services for an Individual with Mental Retardation or a
Developmental Disability

Summary of Material Incorporated by Reference

The “Supports for Community Living Manual, November 2005 edition” replaces the March 2003 Edition. The manual serves as a guide for agency staff and participating SCL providers. The total number of pages incorporated by reference for this administrative regulation is 165 pages.

Two new forms, the “Assessment/Reassessment Level of Care Determination Form (MAP 351B)” and the “Monthly Medication Error Report”, were added to the manual and “assessment/reassessment” was added to the list of covered services (Page 8, Section D.3.). Additionally, adult day training (Page 8, Section D.1.) and children’s day habilitation (Page 9, D.6.) were added to the manual, replacing community habilitation and vocational supports.